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IN THE

Supreme Court of the United States

OCTOBER TERM, 1940.

YOUNG MEN'S CHRISTIAN ASSOCIATION,
A CORPORATION,
Petitioner and Appellee Below,

vs.

NEW YORK CASUALTY COMPANY,
A CORPORATION,
Respondent and Appellant Below.

PETITION FOR WRIT OF CERTIORARI TO UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT AND BRIEF IN SUPPORT THEREOF.

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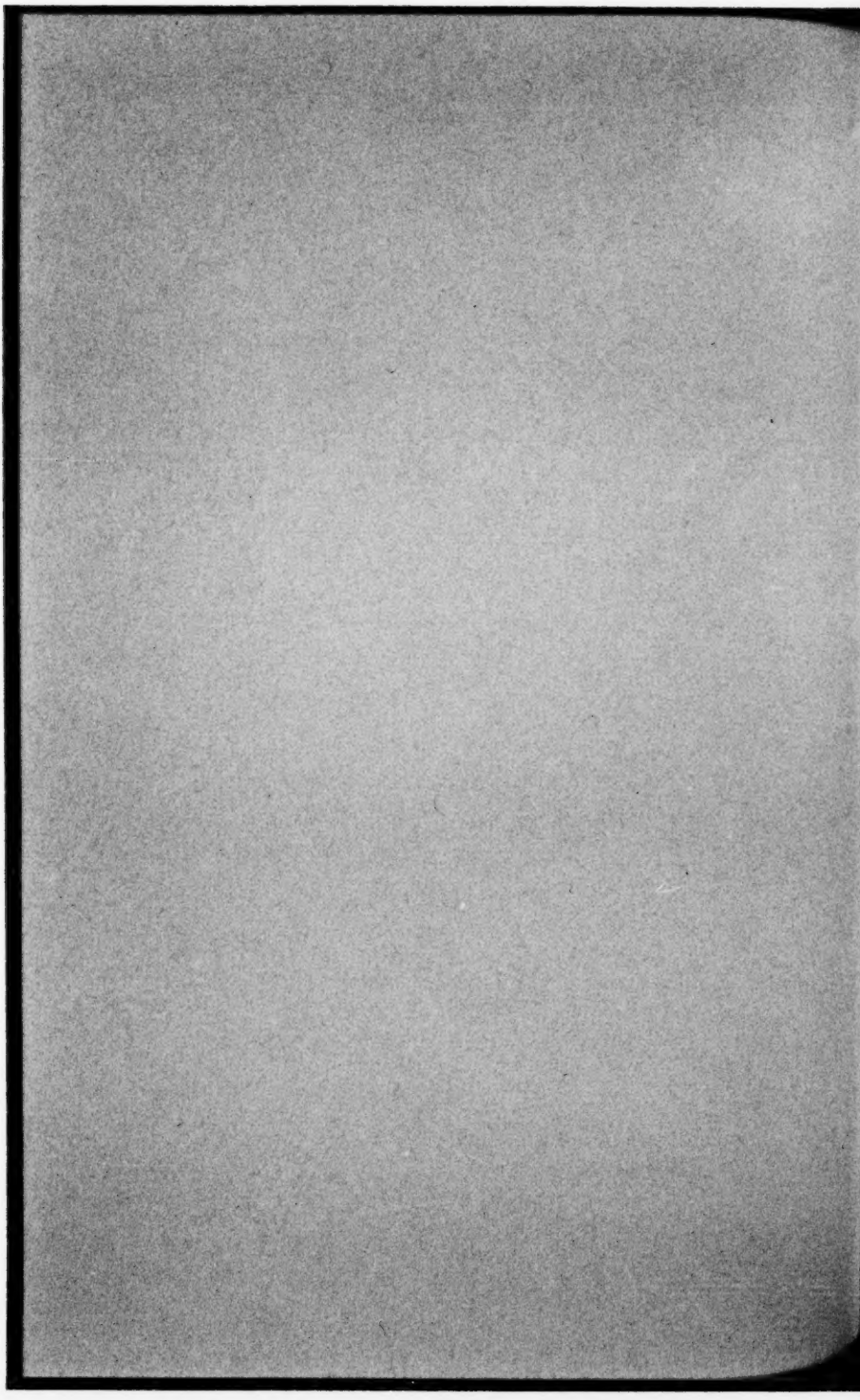

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VS.

NEW YORK CASUALTY COMPANY,
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Respondent and Appellant Below.

PETITION FOR WRIT OF CERTIORARI TO UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT AND BRIEF IN SUPPORT THEREOF.

To the Honorable Harlan Fiske Stone, Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United States:

Your Petitioner respectfully shows:

I. This was an action brought in the District Court of the United States for the Southern District of Iowa by the respondent, asking a judgment declaring that the respondent was not liable to the petitioner under the terms of an elevator liability policy (Printed Record, Exhibits "A", "A-1", "A-2", on pp. 19, 21 and 23) on account of a judgment against the Y.M.C.A. by reason of the death of one Arthur Andrews,

a W.P.A. worker, who lost his life as the result of the operation of the elevator located in the building owned by the Y.M.C.A. (Exhibit "A", Printed Record, p. 21), while Andrews was working in the Y.M.C.A. building on a recreational project.

Two other insurers issuing policies against public liability and Workmens' Compensation respectively were brought in. Trial was had to the Court and judgment was rendered in favor of Petitioner (Y.M.C.A.) and against the New York Casualty Company in the sum of $11,512.23 (Record, pp. 171-172) and the cross complaints against the other two insurance companies were dismissed. An appeal from said judgment was taken by the New York Casualty Company to the Circuit Court of Appeals for the Eighth Circuit. The principal question involved in said appeal was whether Andrews was an employee of the Y.M.C.A. within the meaning of that term in the policy of that Company. The Circuit Court of Appeals decided that Andrews did come within the exception in the policy as to an employee and reversed the judgment.

II. REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT.

(1) The decision of the Circuit Court of Appeals as to the status of a W.P.A. worker holding that he is an employee of the person to whom he is lent, is a decision of an important question of local law in conflict with applicable local decisions.

(2) The decision of said Circuit Court of Appeals as to the status of an employee hired by and paid by the Works Progress Administration, an agency of the Federal Government, holding he is an employee of the owner of the place where he is working is an erroneous decision of an important question to the business world and to the hundreds of thousands of employees so engaged.

Wherefore, your Petitioner prays that a Writ of Certiorari issue under the seal of this Court directed to the Circuit Court of Appeals of the United States for the Eighth Circuit, demanding said Court to certify and send to this Court a full and complete transcript of the record and of the proceedings of the said Circuit Court of Appeals in the case numbered and entitled on its docket No. 11739, New York Casualty Company, a Corporation, Appellant, vs. Young Men's Christian Association, a Corporation, et al., Appellees, to the end that this cause may be reviewed and determined by this Court as provided for by the statutes of the United States; and that the judgment herein of said Circuit Court of Appeals be reversed by the Court, and for such further relief as to this Court may seem proper.

Dated July 8, 1941.

YOUNG MEN'S CHRISTIAN ASSOCIATION,
A CORPORATION,

By VINCENT STARZINGER,
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